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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,760	08/06/2003	Jim Dehart	742436-19	3821

22204 7590 03/01/2004

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,760

Applicant(s)

DEHART, JIM

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, 20, drawn to a barrier comprising inverted "T" shaped plates classified in class 404, subclass 6.
 - II. Claims 12-19, drawn to a barrier comprising "hat-shaped" plates, classified in class 256, subclass 13.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a wall. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Donald Studebaker on 2/25/2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-11, 20. Affirmation of this election must be made by applicant in replying to this Office action. Claims withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

2. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 11 recites "the barrier of claim 1, wherein the barrier is adapted o be a vehicle barrier". However, Claim 1 already recites "A vehicle barrier comprising:" in line 1. Further, neither the claims nor the specification discloses in what manner the barrier is "adapted to be a vehicle barrier". What changes to the barrier does "adapted" imply? Does "adapted to be a vehicle barrier" only entail placing the barrier on a road, parking lot or sidewalk ?

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the Constantine wire, barbed wire, razor wire and concertina wire, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-11, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fritzing # 6,200,063.

Fritzing discloses a guide barrier especially for securing vehicular traffic on roads.

Said barrier comprising:

A plurality of inverted "T" shaped plates (1) having a top and a base.

At least 2 feet portions (5).

At least one interconnecting member (2, 3) adapted to interconnect the plurality of the inverted "T"-shaped plates.

Wherein the inverted "T"-shaped plates are configured to engage a ground surface, for the intended use of at least partially immobilizing a vehicle. See col. 1, Ins 28-67.

In regards to claims 3-6 Fritzinger discloses the barrier top portion is forked; the Interconnecting member is a formed bar; the feet (5) are forked and flat; and the barrier is adapted to be detachably interconnected with one or more additional barriers.

In regards to Claims 10, 11 Fritzinger discloses the vehicle barrier is intended to be a vehicle barrier and can be disposed either in curvilinear arrangements or can be arranged in a "wall configuration", such as a rectilinear extension. See col. 4, Ins. 27-53.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Fritzinger # 6,200,063 in view of Robinson # 4,093,187.

Fritzinger discloses a vehicle barrier system comprising a plurality of "T"-shaped plates (1). But does not disclose the use of barbed wire or signs having indicia. However, Robinson teaches a system for temporary or permanent barrier construction and repair comprising: A barrier system having a plurality of individual barriers (100). A securing mechanism (30, 36) for securing a barbed wire to the barrier members (100). As well as well as securing mechanism (75, 212) for securing a sign (220) to the barrier member (210). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier system of Fritzinger, with securing mechanisms, as taught by Robinson, in order to adapt the barrier to a variety of uses, such as posting no hunting signs adjacent to roadways. See Figs. 1, 28, 18; Col. 5, ln. 36-col. 6, ln. 35; col. 11, lns. 26-60.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cross et al. # 5,186,438 discloses a modular rock catchment barrier. Sanford, Jr. et al. discloses an intrusion detection device.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

RWA
2/24/2004